



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 4, 1998

Mr. James T. Jeffrey, Jr.
Remington & Jeffrey
1306 W. Abram
Arlington, Texas 76013-1711

OR98-1381

Dear Mr. Jeffrey:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115497.

The City of Lancaster (the "city"), which you represent, received a request for three categories of information: (1) a 911 tape and transcript of the 911 tape, (2) list of the dates, types, and narratives of past 911 calls and police responses to a certain apartment unit, and (3) a copy of the incident and related reports concerning a police shooting. You state that neither a transcript of the 911 tape nor a list of 911 calls with the required details, exists. We agree that the city does not have to create records that are not in existence at the time the request is received. Open Records Decision Nos. 561 (1990) at 9 (city does not have to obtain new information), 483 (1987) at 2, 452 (1986) at 3 (open records request applies to information in existence when request is received), 362 (1983) at 2 (city does not have to supply information which does not exist).

You also claim that the request is too broad in scope. A governmental body may seek clarification of a request that is unclear or very broad in scope. Gov't Code § 552.222. However, a governmental body has an obligation to make a good faith effort to locate requested records. Open Records Decision No. 561 (1990) at 8. You submitted records to this office for review that are responsive to the request, but contend that these records are

protected from disclosure pursuant to sections 552.101, 552.103, and 552.108 of the Government Code.¹

Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. You state that the police shooting that the submitted records pertain to is being investigated by the district attorney and is the subject of a pending grand jury review. Since there is an ongoing investigation, we agree that you have shown that release of most of this information would interfere with the investigation or prosecution of crime. Open Records Decision No. 216 (1978) at 3.

However, we note that basic information concerning the incident is not protected from disclosure under section 552.108, as provided by subsection (c) of section 552.108. Basic information is the type of information that is generally included on the front page of an offense report, including a detailed description of the incident. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). For your convenience, we have enclosed a list of the type of information that is generally public and must be disclosed. We note that although basic information often is found on the front page of an incident report, its location is not determinative and it must be released regardless of where it is located. To determine what information must be released, the type of information must be examined rather than where it is located. See Open Records Decision No. 127 (1976) at 5.

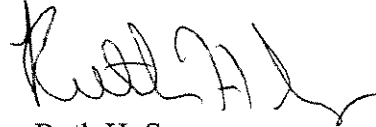
You also assert that sections 552.101 and 552.103 protect the records at issue from disclosure. We will discuss these exceptions in regard to the front page information, which is the only remaining information at issue. Front page information generally may not be withheld from disclosure under section 552.103(a). Open Records Decision No. 597 (1991) at 3. Also, although you assert that section 552.101 protects this information from disclosure, you provide no explanation for why section 552.101 would protect any of the front page information from disclosure. Thus, the front page information must be disclosed. The remaining records at issue may be protected from disclosure under section 552.108.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous

¹Your correspondence to this office indicates your concern that certain documents may not be reviewed by this office. In your April 6, 1998 letter to this office you state: "I certainly will not give you, or anyone else my privileged attorney/client communication report, or my attorney work product report when such reports are generated." For your future reference, we direct your attention to section 552.301(b)(3) of the Government Code, which requires a governmental body to submit copies of records at issue when a governmental body seeks a decision from this office.

determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 115497

Enclosures: Submitted documents and tape
Copy of Summary Open Records Decision No. 127

cc: Mr. Randall Anderson
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(w/o enclosures; w/Copy of Summary Open Records Decision No. 127)